

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

UNITED STATES OF AMERICA,) CRIMINAL NO.: 3:19-cr-00299-JFA-1, 2, 14, 15
)
 v.)
)
 ANDREW CHMIEL)
 ADVANTAGE ORTHOPEDIC)
 SYSTEMS, INC.)
 DO DELIVERY)
 a/k/a "Doctor Order Delivery")
 PAIN CENTER, LLC)
)
 Property to be indexed under the)
 name of Homerun Holdings LLC)
)
)

FINAL ORDER OF FORFEITURE AS TO THE REAL PROPERTIES LOCATED AT
528 JOHNNIE DODD #3, MT. PLEASANT, SOUTH CAROLINA AND
1051 JOHNNIE DODD, MT. PLEASANT, SOUTH CAROLINA

This matter is before the court upon motion of the United States of America for a Final Order of Forfeiture as to Defendant Andrew Chmiel, who entered a plea to conspiracy to commit health care fraud in violation of Title 18, U.S.C. §§ 1347 and 1349, and Defendant Companies, Advantage Orthopedic Systems, Inc., DO Delivery, and Pain Center, LLC, who entered pleas to conspiracy to commit violations of the anti-kickback statute and health care fraud in violation of 18 U.S.C. §§ 287, 1341, 1343 and 1347, and 42 U.S.C. §§ 1320a-7b(b)(2)(A) and (B); all in violation of 18 U.S.C. § 371. A Preliminary Order of Forfeiture ("POF") as to Defendant Chmiel and Defendant Companies (Collectively "Defendants") was filed on May 17, 2023. [ECF No.135] The record in this case establishes the following:

1. On April 4, 2019, an Indictment was filed charging the Defendants with:

Count 1: Conspiracy to Commit Violations of the Anti-Kickback Statute and Health Care Fraud in violation of 18 U.S.C. §§ 287, 1341, 1343 and 1347, and 42 U.S.C. §§ 1320a-7b(b)(2)(A) and (B); all in violation of 18 U.S.C. § 371;

Counts 2-4: Mail Fraud, in violation of 18 U.S.C. §§ 1341 and 2;

Counts 5-6: Health Care Fraud, in violation of 18 U.S.C. § 1347;

Count 7: Kick-back, in violation of 42 U.S.C. § 1320a-7b(b)(2)(A) and 18 U.S.C. § 2;

Counts 8-9: False Statements, in violation of 18 U.S.C. § 1001; and

Count 10: Conspiracy to Commit Money Laundering, in violation of 18 U.S.C. § 1956(h).

2. Pursuant to Fed. R. Crim. P. 32.2(a), the above referenced Indictment and the Fifth Bill of Particulars filed on June 5, 2020, contained forfeiture allegations providing that upon the Defendants' convictions, certain properties enumerated therein, or equivalent substitute assets, would be subject to forfeiture to the United States. As specified therein, such assets include, but are not limited to the following:

Real Properties:

- (a) 528 Johnnie Dodd #3
Mt. Pleasant, South Carolina
Parcel No. 514-00-00-176
Owner: Homerun Holdings LLC
Asset ID: 19-FBI-009264

(b) 1051 Johnnie Dodd Blvd
Mt Pleasant, SC 29464
Charleston County, SC
Parcel #535-00-00-233
Owner: Homerun Holdings LLC
Asset ID: 19-FBI-009265

3. On April 12, 2021, Andrew Chmiel pled guilty to conspiracy to commit health care fraud as charged in the Information filed on April 8, 2021.

4. On April 12, 2021, Advantage Orthopedic Systems, Inc., DO Delivery, and Pain Center, LLC pled guilty to conspiracy to commit violations of the anti-kickback statute and health care fraud as charged in the Indictment filed on April 4, 2019.

5. Based upon the Defendants' convictions, and other matters appearing in the record, the court issued a POF determining that the above-described properties are subject to forfeiture, in that such properties constituted, or were derived from, proceeds the Defendants obtained as a result of the offenses. [ECF No. 135] The court further found that the Defendants have an interest in such properties, and that the properties are subject to forfeiture to the United States pursuant to 18 U.S.C. §§ 981(a)(1)(C) and 982(a)(7) and 28 U.S.C. § 2461(c).

6. The POF was final as to the Defendants pursuant to Rule 32.2(b)(4)(A), Fed. R. Crim. P. The POF directed that the United States provide notice to third parties of the government's intent to dispose of the above-listed real properties and provided that following publication and adjudication of all third-party interests in the properties, the court would enter a final order of forfeiture pursuant to 21 U.S.C. § 853(n)(7).

7. Pursuant to Rule 32.2(b)(6)(C), and 21 U.S.C. § 853(n)(1) and (2), beginning on May 18, 2023, and running at least 18 hours per day through June 16, 2023, the United States published notice of the forfeiture on the government website, “www.forfeiture.gov”, which is a website of general circulation within the United States and the State of South Carolina. The notice advised that any person claiming an interest in the forfeited properties must file a claim within sixty days of the first date of publication for a hearing to adjudicate the validity of their interest in the properties. The deadline for filing a third-party ancillary petition based upon publication has now expired.

8. On August 18, 2023, the government sent direct notice of forfeiture via certified and regular U.S. mail to those who may have potential interests in such properties. No third-party claims have been filed with the court; therefore, all such claims to the properties are forever foreclosed and barred.

9. The court has previously determined the government has established the requisite nexus between the said properties; therefore, the properties shall be forfeited to the United States pursuant to 21 U.S.C. § 853.

Accordingly, it is further ORDERED, ADJUDGED, and DECREED,

1. The below-listed real properties are hereby forfeited to the United States of America, along with all rights, title, and interest of the Defendant Andrew Chmiel and Defendant Companies, Advantage Orthopedic Systems, Inc., DO Delivery, and Pain Center, LLC, in and to:

Real Properties:

- (a) 528 Johnnie Dodd #3
Mt. Pleasant, South Carolina
Parcel No. 514-00-00-176
Owner: Homerun Holdings LLC
Asset ID: 19-FBI-009264
- (b) 1051 Johnnie Dodd Blvd
Mt Pleasant, SC 29464
Charleston County, SC
Parcel #535-00-00-233
Owner: Homerun Holdings LLC
Asset ID: 19-FBI-009265

2. Pursuant to 21 U.S.C. § 853(n)(7), clear title in and to the above-listed real properties is vested in the United States of America, its successors and assigns, and no other right, title or interests exists therein. All claims to the above-described real properties are forever foreclosed and barred, and the properties shall be disposed of by the United States in accordance with law.


3. This Order shall serve as a Writ of Entry and Inspection, authorizing the United States, and its authorized representatives, to enter onto and into the premises of the above-described real properties as necessary for purposes of conducting inspections, appraisals and videotaping the properties, to record and document the condition, value and maintenance of the real properties until these proceedings are concluded. Any occupants shall be served with a copy of this order and provided notice of the forfeiture of the said real properties.

4. The Register of Deeds in Charleston County, South Carolina is directed to index this Final Order of Forfeiture under the name of Homerun Holdings, LLC.

5. The court shall retain jurisdiction to resolve disputes which may arise and to enforce and amend this Order as necessary, pursuant to Fed. R. Crim. P. 32.2(e).

6. The Clerk, United States District Court, shall provide one (1) certified copy of this Order to the United States Attorney's Office.

AND IT IS SO ORDERED.


JOSEPH F. ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

October 16, 2023
Columbia, South Carolina

I SO MOVE:

s/ Anne Hunter Young
Anne Hunter Young
Assistant United States Attorney

SIGNATURE TO FOLLOW ON NEXT PAGE

I CONSENT:

s/ E. Bart Daniel

E. Bart Daniel

Counsel for Defendants Andrew Chmiel,

Advantage Orthopedic Systems, Inc.,

D.O. Delivery, LLC a/k/a "Doctor Order Delivery" and

Pain Center, LLC